

## STAFF REPORT

**TO:** Planning and Zoning Commission

**DATE:** June 6, 2007

**FROM:** Scott Shuford, AICP, Planning and Development Director

**SUBJECT:** Zoning Ordinance Wording Amendment – Mixed Use District

**Summary Statement:** The consideration of an amendment to Chapter 7 of the Code of Ordinances of the City of Asheville (UDO) to establish a new mixed use district.

**Background:** Staff has been working on a way to simultaneously consolidate some of our “urban” zoning districts while implementing corridor plans like the Merrimon Avenue and River Redevelopment/Wilma Dykeman plans. The attached ordinance is our draft effort to address these separate ends.

The ordinance has been modified to reflect the direction given to staff at the Commission’s March 22, 2007 meeting.

### **Pros**

- Provides a way to consolidate several urban districts while allowing flexibility for specific circumstances.
- Promotes City goals of code streamlining, mixed use development, green building, and tax base enhancement.

### **Con**

- Application to various corridors will result in changes to existing land use patterns (possibly a pro).

**Recommendation:** Staff recommends approval of the attached ordinance.

**ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO CREATE A MIXED USE DEVELOPMENT DISTRICT.**

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WHEREAS, the City of Asheville has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

WHEREAS, a comprehensive amendment to the City's zoning regulations was adopted on May 27, 1997 (Ordinance No. 2369) and is codified in Chapter 7 of the Asheville City Code (herein "Unified Development Ordinance"), and maps dividing and classifying the property within the City's zoning jurisdiction were adopted on May 27, 1997 (Ordinance No. 2370) and are on file and maintained in the offices of the Asheville Planning and Development Department (herein "Official Zoning Maps"); and

WHEREAS, the Asheville City Council has determined following a public hearing on \_\_\_\_\_, that it is in the interest of the public health, safety and welfare to amend certain provisions of the Unified Development Ordinance to create a Mixed Use Development District;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

1. Section 7-8-27 be created to read:

**Sec. 7-8-27. Mixed Use District.**

- (a) *Purpose.* The Mixed Use District (MXD) is established to foster urban-style, mixed-use development that is economically-viable, pedestrian-oriented, visually-attractive and contributing to the place-making character of the city. The Mixed Use District is designed to provide new development and redevelopment opportunities in the form of structures exhibiting an urban form that relate to the street, enhance the streetscape, and offer a wide range of complementary land uses and employment opportunities. The Mixed Use District is intended primarily for use in areas intended for an urban development form and where the design and appearance of the built environment is important to the vitality of the area. Typical application of this district will be in areas with sufficient infrastructure to support this type of development. Enhancing and maintaining the transportation function and capacity of adjacent streets is also a goal of this district. There should be general compatibility with established small area or corridor plan(s) or with the existing or historic development pattern in applying this district and the district may have area-specific requirements in order to meet the goals of these plans.

(b) *Permitted uses.*

Residential

Dwellings, multi-family

Dwellings, single family attached

Recreational

- Arboretums
- Passive parks
- Recreational uses, commercial indoor
- Recreational uses, governmental
- Recreational uses related to residential development

Institutional

- Adult day care centers
- Assisted living facilities
- Children day care centers
- Civic, social service, and fraternal facilities
- Churches and other places of worship
- Colleges and universities
- Dormitories
- Family care homes
- Group homes
- Hospitals and medical centers
- Libraries
- Schools
- Vocational and training schools

Public/semi-public

- Amphitheaters and auditoriums
- Community centers
- Fire and police stations (excluding protective services)
- Government buildings
- Libraries
- Museums
- Parks and greenways
- Performance centers
- Post offices (no distribution centers)
- Public utilities and related facilities

Office/business

- Automobile service stations with no vehicles sales and no storage of abandoned or inoperable vehicles
- Bakeries
- Barber shops and salons
- Bars, nightclubs
- Bed and breakfast inns
- Bicycle shops
- Boardinghouses
- Bookstores
- Candy, pastry, ice cream and snack shops
- Clinics, medical, dental, psychiatric, optical
- Clinics, veterinary
- Convenience stores
- Copying centers

Cottage industries  
Delicatessens  
Financial institutions  
Flea markets, indoors  
Florists  
Fruit and vegetable markets  
Gift shops  
Grocery stores  
Hardware/garden supply stores  
Health and fitness facilities  
Home occupations  
Inns  
Instructional services  
Laboratories  
Laundry and dry cleaning establishments  
Live-work units  
Lodging facilities  
Offices  
Pharmacies  
Printing and publishing  
Pubs  
Radio and television studios  
Rental businesses  
Research and technology production  
Residential related commercial service  
Restaurants  
Retail sales  
Retail gasoline sales with no vehicles sales and no storage of abandoned or inoperable vehicles  
Studios, galleries, and workshops for artists, craftspeople, designers, photographers  
Tailgate markets  
Tailors/dressmaker shops  
Taxi stands  
Theaters  
Video rental stores  
Vocational and training schools  
Wedding chapels, commercial  
Wholesale sales

Other

Accessory structures  
Parking garages, public or commercial

(c) *Prohibited uses.* Any use not specifically listed as a permitted use, use by right subject to special requirements, or a conditional use in the Mixed Use District is prohibited.

(d) *Uses by right, subject to special requirements.*

Telecommunication towers using concealed, wireless or microcell technology  
Dwellings, single family detached

(e) *Conditional uses.*

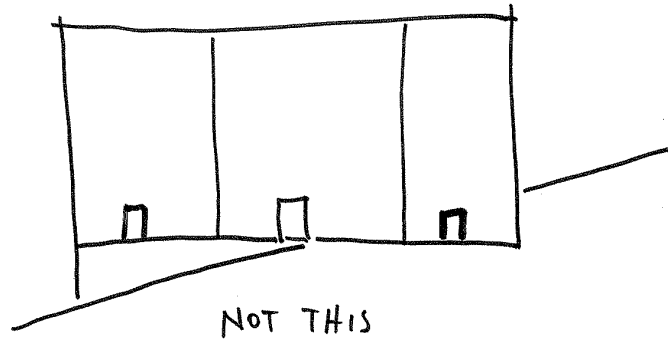
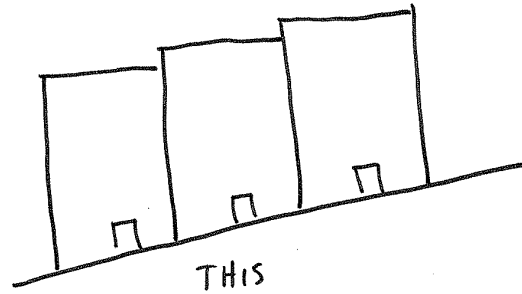
Level III projects incorporating uses permitted in the Mixed Use District.

(f) *Development standards.*

- (1) *Density standards.* Maximum residential density shall be 32 units per acre but may be increased up to a maximum of 64 units per acre if at least 25% of the total number of dwelling units meet City of Asheville affordability standards or at least 10% of the total number of dwelling units meet City of Asheville affordability standards and at least 25% of the total number of dwelling units contain 700 square feet or less of gross floor area.
- (2) *Building size:* Building size shall be a maximum gross floor area of 24,000 square feet. The gross floor area of the ground floor shall not exceed 12,000 square feet, except for grocery stores which are allowed a maximum gross floor area on the ground floor of 24,000 square feet. The maximum total gross floor area and maximum ground floor gross floor area may be increased per the Community Incentive Table.
- (3) *Lot size:* There shall be no lot size or lot width requirements.
- (4) *Setback standards:*  
Front and corner side(s): Minimum 0' and maximum 15' from right-of-way for all principal structures. The planning and development director may adjust the setback line to not more than 25 feet from the right-of-way based upon an assessment of topographic, flood hazard, significant existing vegetation, or other significant site constraints or features that preclude compliance with the maximum setback established above.  
Side: None  
Rear: None
- (5) *Height standards:*
  - (a) A minimum height of two stories shall be required for all principal structures except for grocery stores which may be a single story in height.
  - (b) All principal structures shall comply with the following requirements with regard to structure height. Parking garages constructed to support a principal structure shall not exceed the height of that structure. Parking garages shall not be subject to the number of stories or floor area limitations in the following table.

| Number of Stories | Maximum Height | Minimum % of Total Gross Floor Area Contained in Upper Floor(s) |
|-------------------|----------------|---|
| 1                 | 20 feet        | N/A   |
| 2                 | 32 feet        | 40%   |
| 3                 | 50 feet        | 60%   |

- (c) No accessory structures except parking garages shall exceed 20 feet in height.
- (d) For the purpose of this section, height of buildings shall be calculated as the vertical distance from grade at the level of the adjacent street or streets to the midpoint of the peak and eave for structures with pitched roofs and from the top of the parapet or roof surface, whichever is greater, for flat-roofed structures. This is intended to encourage buildings to “step” on sloped sites. (See illustration below.)



- (6) *Impervious surface standards.* The maximum impervious surface coverage in the Mixed Use District shall be 90 percent.
- (7) *Landscaping/buffering standards.* Landscaping and/or buffering shall be provided as required by section 7-11-2 of this chapter with the exceptions noted below. In the Mixed Use District, street trees shall be provided and may be placed in the front building setback, in the street right of way (with an approved encroachment agreement), or as specified in a streetscape plan that may be proposed or in place for the corridor. The planning and development director may grant alternate compliance as outlined in Section 7-11-2 in order to provide appropriate buffers for the purpose of compatibly integrating the Mixed Use District development into the surrounding land use pattern or when addressing situations such as a property containing an existing building, an adjacent property owned by the same owner, or other unusual scenarios.
- (8) *Parking/loading standards.* Parking and loading facilities shall be provided as required by section 7-11-1 of this chapter with the following additions:
  - a. Parking shall be provided at the side or rear of the structure and not closer to the street than the facade or edge of the structure; on corner and through lots, the side of the building that fronts on the secondary street is also considered a facade or edge of the building.
  - b. Parking may be provided in the street right-of-way adjoining the property as on-street parking with the approval of the city traffic engineer or the North Carolina Department of Transportation.
  - c. Uses in the Mixed Use District are permitted up to a 50 percent reduction in the minimum number of parking spaces required by

section 7-11-1 of this chapter provided that transit shelters and/or pedestrian amenities are provided and such amenities are determined by the planning and development director to offer significant multimodal transportation accessibility to, from, or within the development. Pedestrian amenities may include but are not limited to sidewalks five or more feet wider than the standard for the area, public restrooms and water fountains, and public courtyards, gazebos and park areas accessible from the public right-of-way.

- d. Shared and remote parking is encouraged and may count for up to 100 percent of the required parking as long as the parking is within 500 feet of the property to be served by shared or remote parking. Shared parking lots or remote parking lots shall comply with the parking and landscaping requirements of Article 11. Rules requiring that shared and remote parking areas must be found in the same zoning classification are waived or developments in the Mixed Use District. Residentially zoned areas shall not be used to provide shared or remote parking space for this district except that parking lots for nonresidential uses in residential districts may be used. A recorded agreement for the shared or remote parking arrangement shall be required to ensure continued availability of the shared or remote parking for the specified use(s).
  - e. Parking garages may be provided as an accessory use in meeting a project's parking requirements and shall not be counted as gross floor area. Parking garages may contain more than the maximum number of spaces required for the associated use(s) if there are shared parking or commercial or public parking arrangements that provide parking access to the garage by the public.
- (9) *Sidewalk standards.* Sidewalks shall be provided as required as set forth in section 7-11-6 of this chapter, except that a minimum width of ten feet shall be provided unless precluded by topographic or dimensional constraints as determined by the city engineer. In addition, sidewalk connections may be required to provide a safe passageway for pedestrians and patrons through parking areas to the entrance of the businesses. If internal cross-access is provided between parcels, then sidewalks shall also be provided along these accessways as needed to insure pedestrian connectivity.
- (10) *Open Space standards.* Open space shall be provided as required by section 7-11-3 of this chapter, except in no case shall the total required open space exceed five percent of the lot area. Public sidewalk spaces two or more feet wider than the minimum requirement and featuring public pedestrian amenities, outdoor dining facilities and pocket parks are encouraged and may count toward open space requirements.
- (11) *Design and operational standards.*
- a. *Orientation.* The front of all principal structures shall be orientated toward the primary corridor. On corner lots, the principal structure(s) shall be located at the corner unless prohibitive topographic constraints exist as determined by the planning and development director.
  - b. *Entrances.* All principal structures shall include a well-defined

operable entrance at regular intervals not exceeding 45 feet on the facade facing the primary corridor and on corner sides to encourage access by pedestrians. Pedestrian access shall be strongly encouraged from the primary corridor. Secondary entrances shall be allowed and may face driveways or parking areas. Principal structures on corner lots may place the entrance at the corner, eliminating the need for dual entrances for each facade.

- c. *Windows.* Windows shall be evenly distributed at pedestrian level across the length of the facade on the first floor of the principal structure(s). Windows will create a more effective pedestrian environment if they are un-tinted and non-reflective. Windows shall make up at least 45 percent of the ground floor facade facing the primary corridor. If located on a corner lot, windows shall make up at least 40 percent of the first floor facade facing the corner side street. Windows on upper floors shall make up at least 35% of the upper story facades that face streets, although this may be reduced to 20% if determined necessary to meet LEED™ certification requirements. All windows shall be transparent or lightly tinted and shall not appear false or applied. Windows shall be required as provided above along the sides of structures that are visible from roadways or have surface parking lots located adjacent to them.
- d. *Facades.* When new building facades will be wider than 45 feet, the facade surface shall be subdivided into portions not exceeding this distance by varying setbacks, roof forms, or adding design details such as pilasters or other architectural treatments. Building facades shall “step” on sloped sites so that no retaining wall or crawl space area greater than four feet in height shall face on a street frontage.
- e. *Parking garages.* Parking garages facing the primary corridor and corner sides shall have ground floor office, retail or restaurant uses across a minimum of 60% of all street façades. These uses shall be a minimum of 20 feet in depth measured from the street façade(s) and shall meet the applicable entrance, window and façade requirements of this section. Sides of parking garages that face the internal side(s) or the rear of the property shall meet the screening requirements for retaining walls in subsection f below.

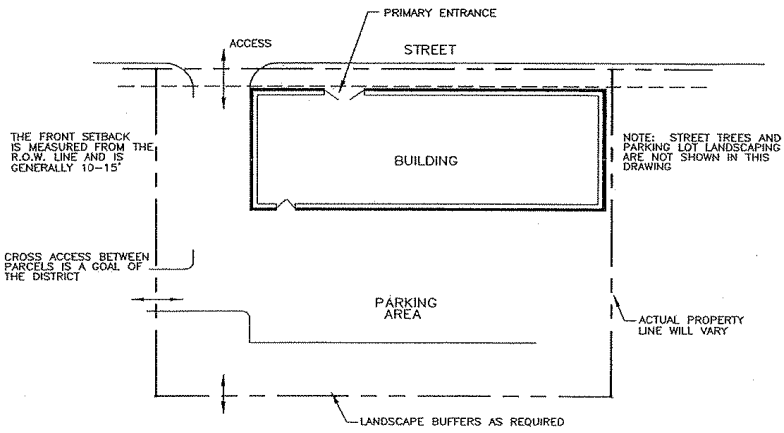
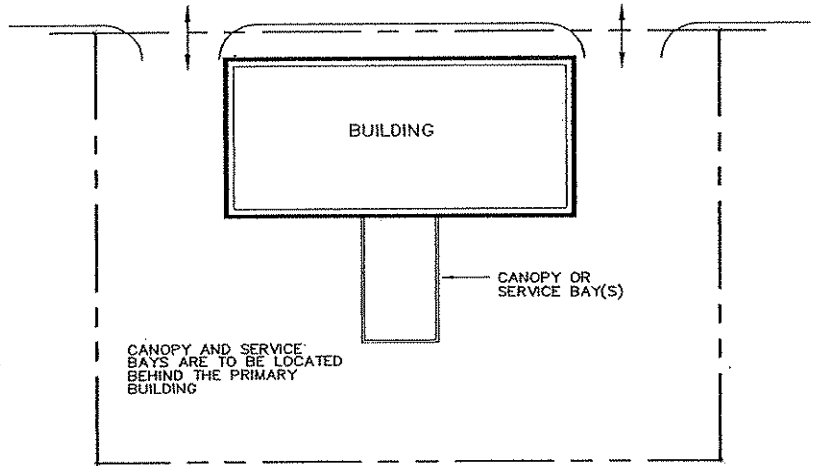
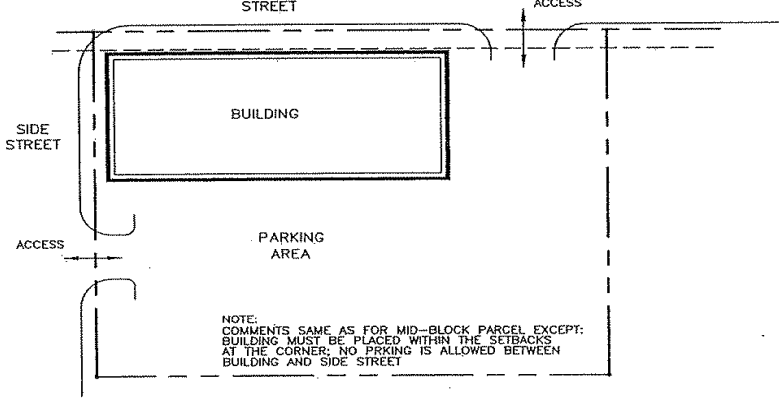
- (12) *Access and connectivity standards.* As determined by the planning and development director based on a review of the existing street network, topographic conditions and other related factors, sites that are two or more acres in size may be required to provide a network of internal streets and driveways. Shared access and cross-access with adjoining properties instead of access from the primary corridor shall be required where practical to improve and sustain the capacity of the corridor, reduce the number of curb cuts, ensure driver and pedestrian safety, improve the unity of the streetscape, and encourage pedestrian mobility. Stub out connections to neighboring parcels may be constructed if cross access is not available at time of permit approval. New block lengths shall not exceed 600 feet unless precluded by topography or existing block patterns.

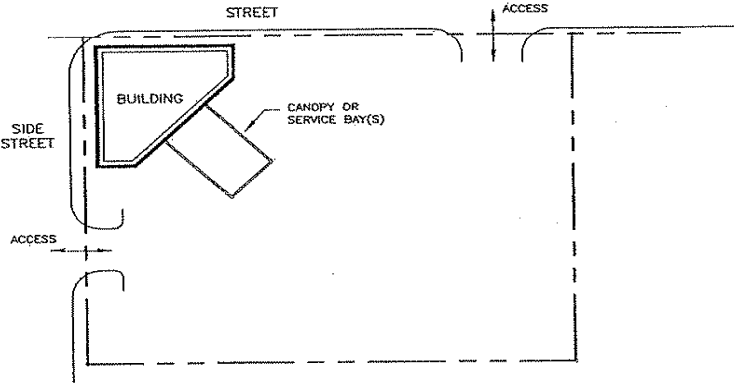
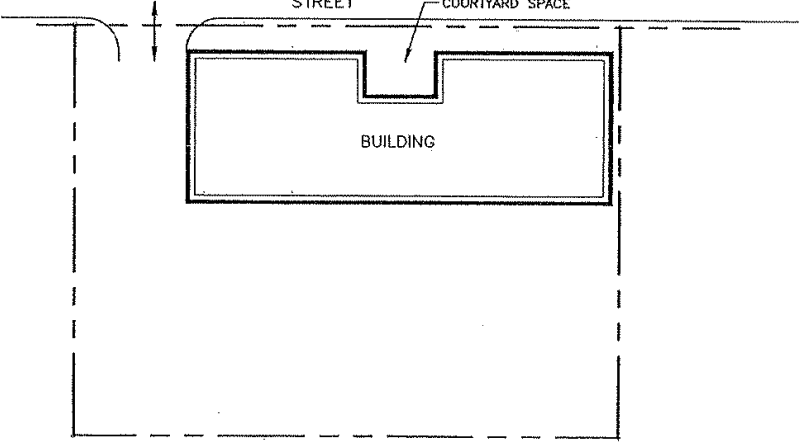
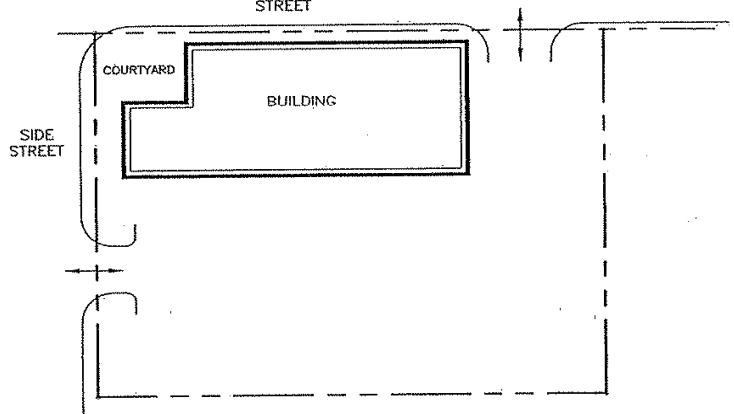


- (13) *Community Incentive Table.* In order to promote community goals of energy efficiency, mixed use development, and historic preservation, the following gross floor area and height incentives may be applied provided the requisite goals are met. For the purpose of applying this table, each incentive is available for each goal achieved (e.g., a building that is LEED™-certified can take advantage of both the gross floor area incentive and the height incentive).

| <b>Community Incentive Table</b>  |   |  |   |
|---|---|--|---|
| <b>Incentives</b>   | <b>Energy Efficiency</b>                            | <b>Mixed Use</b>   | <b>Existing Historic Structures Listed on the National Register</b>   |
| Maximum gross floor area up to 48,000 square feet   | LEED™ or Healthy Built™ Certification or Green Roof | Ground floor is 100% nonresidential and a minimum of 50% of the gross floor area of the upper floors are residential | Compatible adaptive reuse and/or additions to historic structures provided the architectural character of the principal structure, including fenestration (i.e., door and window openings), is maintained with regard to any facade that faces a street or is prominently visible from adjoining properties |
| Maximum four story height (max. height of 60 feet; min. 70% of total gross floor area above ground floor) | LEED™ or Healthy Built™ Certification or Green Roof | Ground floor is 100% nonresidential and a minimum of 50% of the gross floor area of the upper floors are residential | Compatible adaptive reuse and/or additions to historic structures provided the architectural character of the principal structure, including fenestration (i.e., door and window openings), is maintained with regard to any facade that faces a street or is prominently visible from adjoining properties |

- (14) *Drive-through facilities.* Drive-through facilities in the Mixed Use District shall be limited to bank and pharmacy uses and shall not be in operation between the hours of 10:00 pm and 7:00 am. These facilities shall be located to the side or rear of the principal structure(s) to which they are attached. Automated drive-through facilities such as ATMs shall also be subject to these requirements.
- (15) *Development templates.* To facilitate the application and implementation of the development standards of this section, the following development templates are provided to direct the placement of various types of urban development on lots in the Mixed Use District.

|  |  |
|--|--|
| <p>Mid-Block Parcel</p>  |  <p>Diagram illustrating a Mid-Block Parcel layout. The building is situated between a street and a parking area. Key features include:         <ul style="list-style-type: none"> <li>STREET (top boundary)</li> <li>ACCESS (point of entry from street to building)</li> <li>PRIMARY ENTRANCE (on the building's front facade)</li> <li>BUILDING (central structure)</li> <li>PARKING AREA (located behind the building)</li> <li>CROSS ACCESS BETWEEN PARCELS IS A GOAL OF THE DISTRICT (indicated by a dashed line and arrows)</li> <li>LANDSCAPE BUFFERS AS REQUIRED (indicated by dashed lines along the property boundaries)</li> <li>NOTE: STREET TREES AND PARKING LOT LANDSCAPING ARE NOT SHOWN IN THIS DRAWING</li> <li>ACTUAL PROPERTY LINE WILL VARY (indicated by a dashed line)</li> <li>THE FRONT SETBACK IS MEASURED FROM THE R.O.W. LINE AND IS GENERALLY 10-15'</li> </ul> </p> |
| <p>Mid-Block Parcel<br/>– Gasoline Sales,<br/>Auto Repair or<br/>Drive-Through</p> |  <p>Diagram illustrating a Mid-Block Parcel layout for Gasoline Sales, Auto Repair, or Drive-Through. The building is situated between a street and a parking area. Key features include:         <ul style="list-style-type: none"> <li>STREET (top boundary)</li> <li>BUILDING (central structure)</li> <li>CANOPY OR SERVICE BAY(S) (extending from the building to the street)</li> <li>CANOPY AND SERVICE BAYS ARE TO BE LOCATED BEHIND THE PRIMARY BUILDING</li> </ul> </p>   |
| <p>Corner Parcel</p>   |  <p>Diagram illustrating a Corner Parcel layout. The building is situated at the corner of a street and a side street. Key features include:         <ul style="list-style-type: none"> <li>STREET (top boundary)</li> <li>SIDE STREET (left boundary)</li> <li>BUILDING (central structure)</li> <li>PARKING AREA (located behind the building)</li> <li>ACCESS (points of entry from both streets)</li> <li>NOTE: COMMENTS SAME AS FOR MID-BLOCK PARCEL EXCEPT: BUILDING MUST BE PLACED WITHIN THE SETBACKS AT THE CORNER. NO PARKING IS ALLOWED BETWEEN BUILDING AND SIDE STREET</li> </ul> </p>  |

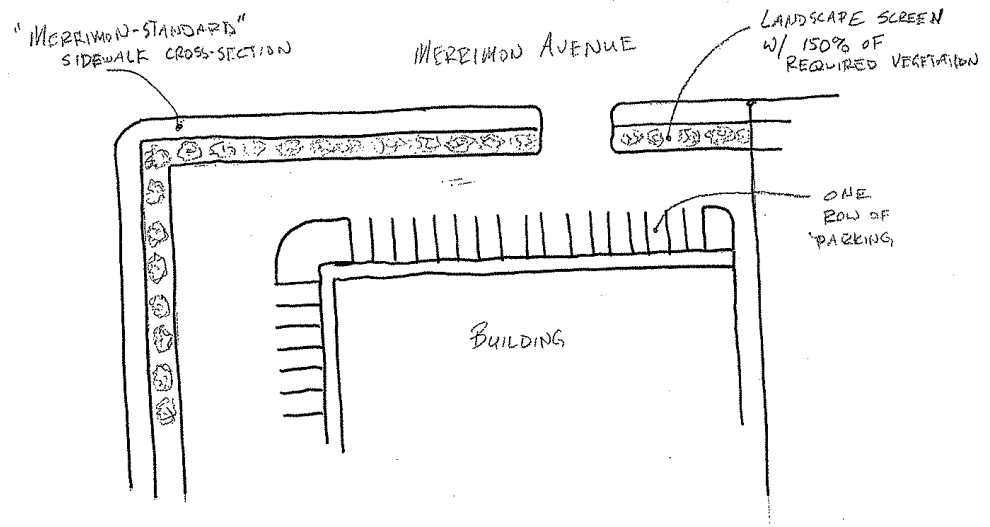
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|---|--|
| <p>Corner Parcel –<br/>Gasoline Sales,<br/>Auto Repair or<br/>Drive-Through</p> |    |
| <p>Mid-Block<br/>Courtyard<br/>Development</p>                                  |   |
| <p>Corner Courtyard<br/>Development</p>   |  |

- (16) *Sustainable design encouraged.* The City of Asheville encourages all design and construction to follow the Leadership in Energy and Environmental Design (LEED™) Commercial Green Building rating system, or other related LEED™ Rating System approved by the U.S. Green Building Council.
- (17) *Variances.* Requests for variances from the development standards and corridor-specific development standards set forth in this section may be considered by the Planning and Zoning Commission, which is hereby designated to perform the duties of a board of adjustment for this purpose.

(g) *Area-specific development standards.* The following additional standards shall apply in the specified areas for properties zoned Mixed Use District. In the event of a conflict between these area-specific standards and the dimensional standards provided in Section 7-8-27(f) above, the area-specific standards shall prevail.

(1) Mixed Use District development adjacent to or primarily accessed from Merrimon Avenue.

- a. North of W.T. Weaver Boulevard, principal structures shall be limited to a maximum gross floor area of 18,000 square feet and a maximum height of three stories; the incentive increases in the Community Incentive Table shall not apply to principal structures in this area except as provided in subsection e below.
- b. Front and corner side(s) setbacks: Minimum 10' and maximum 15' from right-of-way for all principal structures. Alternately, the setback requirements for properties zoned Mixed Use District that front on Merrimon Avenue may be adjusted to allow the placement of one row of parking and associated travel aisle in the front and/or corner side of the site in front of the principal structure(s) provided such parking is screened with landscaping in excess of 150% of the required perimeter landscaping of Section 7-11-1. (See illustration.)



- c. Sidewalks along Merrimon Avenue shall be designed with a cross-section that includes a four foot wide planting strip adjoining the Merrimon Avenue curb line and a six foot wide sidewalk. Exceptions to this standard may be granted by the city traffic engineer upon a finding that significant practical difficulties exist that preclude the indicated cross-section; such practical difficulties may include existing building location, topographic constraints or the presence of significant existing vegetation.
- d. Developments along the Merrimon corridor shall either provide underground utilities or otherwise comply with an adopted city plan for undergrounding utilities.

- e. Buildings identified as having character-defining importance to the Merrimon Avenue corridor by resolution of the Asheville City Council shall be eligible for the gross floor area and height bonuses of the Community Incentive Table provided the architectural character of the designated structures, including fenestration (i.e., door and window openings), is maintained with regard to any facade that faces a street or is prominently visible from adjoining properties.
- (2) Mixed Use District development located within the designated 100-year special flood hazard areas along either the French Broad or Swannanoa Rivers and their adjacent tributaries.
- a. Properties abutting the river shall provide a setback from the top of the river bank of 20% of the lot with a maximum depth of 50 feet and a minimum depth of 25 feet. This area is called the river resource yard. The river resource yard shall not be graded and all existing native trees shall be preserved in order to maintain the river bank and protect existing trees. Diseased trees and shrubs may be pruned leaving roots alive and intact and dead trees removed. Greenways, passive recreation areas and other river access areas may be constructed within the river resource yard.
  - b. The maximum impervious surface coverage for the flood zone properties shall be 80%. Special site and development features such as but not limited to green roofs and other best management practices (BMPs) for storm water collection and treatment may be considered such that their net effect is to provide 80% or less impervious surface coverage as reviewed and approved by City Engineering Department.
  - c. The speculative grading of land within the designated 100-year special flood hazard area is prohibited.
  - d. River District Design Guidelines: All construction work requiring building, sign, demolition, and zoning permits and projects requesting a variance shall be subject to the mandatory review/voluntary compliance procedure as set forth in Article V of this chapter for the River District.
  - e. Elevated buildings: For buildings that are elevated more than four feet in height in order to comply with requirements of the 100-year special flood hazard areas:
    - 1. Parking may occur under the building. Screening of the parking area is required between adjacent right of way areas and the structured parking unless floodplain requirements will not allow for this to occur.
    - 2. Entrance, window and façade development standards at the ground level are waived. A connecting feature from the right of way area to the main level of the elevated structure is recommended.

(3) Reserved.